

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE: B-208118

DATE: July 26, 1982

MATTER OF: Televiso Corporation

DIGEST:

Protest against warranty evaluation factor in a solicitation is dismissed as untimely when filed after bid opening because warranty evaluation factor was apparent from a reading of the solicitation and, therefore, under GAO Bid Protest Procedures, was required to be filed before bid opening.

Televiso Corporation protests against the proposed award of a contract for supplying cathode ray tube assemblies to Electro-Dynamics, Division of Tally Industries (Electro-Dynamics), by the Federal Aviation Administration, pursuant to invitation for bids No. DTFA-02-82-B-00619. Televiso charges that the evaluation scheme set forth in the invitation is improper because it requires the actual offered price to be reduced for evaluation purposes by a certain factor for each hour the offered warranty exceeds 2,000 hours. Televiso argues that, since the manufacturer of the cathode ray tube used in these assemblies only warrants its tubes for a maximum of 2,000 hours, the solicitation unreasonably encourages bidders to take a financial "gamble" in order to offer a warranty in excess of 2,000 hours to have their price reduced by the stated evaluation factor. Televiso contends that this scheme favors Electro-Dynamics. Therefore, Televiso protests that the solicitation should be canceled and readvertised without the warranty clauses and evaluation factor.

We find that this protest is untimely, and we will not consider it on its merits.

The invitation for bids was issued on May 25, 1982, and required submission of bids by June 25, 1982. However, Televiso did not file its protest in our Office until July 2. Under section 21.2(b)(1) of our

Bid Protest Procedures (4 C.F.R. part 21 (1982)), protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening must be filed before bid opening in order to be considered on their merits. Televiso should have known from a reading of the invitation that this warranty evaluation factor was going to be applied in evaluating bid prices. Therefore, Televiso was required to file its protest of the apparent impropriety before bid opening in order to have it considered. Since Televiso did not file its protest until after bid opening, its protest is untimely.

Accordingly, we dismiss the protest.

For *J. H. Barclay Jr.*
Harry R. Van Cleve
Acting General Counsel